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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,827	04/15/2005	Richard J. Bies	A8400	4006
23373 7590 02/12/2009 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER				
EKPO, NNIENNA NGOZI				
ART UNIT		PAPER NUMBER		
2425				
MAIL DATE		DELIVERY MODE		
02/12/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/523,827	Applicant(s) BIES, RICHARD J.
Examiner Nnenna N. Ekpo	Art Unit 2425

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 January 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-20.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☒ Note the attached *Information Disclosure Statement*(s). (PTO/SB/08) Paper No(s). 02/08/2005
13. ☐ Other: _____.

/Brian T. Pendleton/
Supervisory Patent Examiner, Art Unit 2425

Continuation of 11, does NOT place the application in condition for allowance because: Applicant argues on page 2+ of the remarks that Stettner fails to disclose "user search received via the digital broadcast channel of the television network and retrieving the advertising information from said gateway based on the user search, i.e. pull advertising". In response to the applicant's argument that the reference fail to show certain features of applicant's invention, it is noted that the feature upon which applicant relies on (i.e. pull advertising) are not recited in the rejected claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Also Examiner states that a user search (requesting information) is performed on a television channel as shown in fig 4, a result is displayed based on the request, search/query performed by the user as discussed on paragraphs 0058, 0063. A user command which is considered as a user search is performed when a user interacts with the advertisement via a remote control or any input device; the user's remote control produces a "user command" which automatically communicates to the merchant, who fulfills the customer's response to the interactive advertisement. Note further that the interactive advertisements contain triggers "commands" which are responsive to user commands received via a user input device. Applicant also argues on page 7+ of remarks that Stettner fails to teach "a cable content generator configured to process the content information received by said advertiser interface and to generate advertising information adapted for transmission over the cable network, i.e. advertiser provides content information via internet and based on this information, the advertising is automatically generated and converted to a format acceptable for the cable network". In response to applicant's argument, the Examiner respectfully disagrees. Stettner discloses this limitation on paragraphs 0042-0048 that cable provider can generate information (advertisement, television programming etc.) having a format compatible for each end users that receive the information via the television set. Again claim limitation did not specifically disclose "how the advertising content is generated" as being argued by applicant. Applicant also argues on page 8+ of remarks that Stettner fails to teach "wherein the content information includes at least one of a geographic parameter and a temporal parameter, such that the cable network transmits the advertising information corresponding to the content information only within, respectively, a geographical area and a time period". In response to applicant's argument, Examiner reminds applicant that claim is in an alternative language, which means Examiner is only required to meet one of the limitations and Examiner meant the limitation with a geographic parameter.